

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)

IN RE:	:	
DIANE L. ROSSI	:	BK. No. 18-16534-jkf
Debtor	:	
	:	Chapter No. 13
WELLS FARGO BANK, N.A.	:	
Movant	:	
v.	:	
DIANE L. ROSSI	:	
GILBERTO CARRASQUILLO (NON-FILING	:	11 U.S.C. §362 AND §1301
CO-DEBTOR)	:	
Respondents	:	

**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY
UNDER §362 AND CO-DEBTOR STAY UNDER §1301 PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by DEBTOR, DIANE L. ROSSI A/K/A DIANE ROSSI and NON-FILING CO-DEBTOR, GILBERTO CARRASQUILLO.

1. Movant is **WELLS FARGO BANK, N.A.**

2. Debtor(s) executed a promissory note secured by a mortgage or deed of trust.

The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

3. DEBTOR, DIANE L. ROSSI A/K/A DIANE ROSSI and NON-FILING CO-DEBTOR, GILBERTO CARRASQUILLO, are the owners of the premises located at **11614 HENDRIX TERRACE, PHILADELPHIA, PA 19116 NKA 11614 HENDRIX TER, PHILADELPHIA, PA 19116**, hereinafter known as the mortgaged premises.

4. Movant is the holder of a mortgage on the mortgaged premises. The terms of the Debt Agreement were amended by a loan modification agreement entered into by and between Wells Fargo Bank, N.A. and Debtor(s) dated May 16, 2014 (the "Loan Modification Agreement").

5. Debtor's failure to tender monthly payments in a manner consistent with the

6. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.

7. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.

8. As of January 4, 2019, Debtor has failed to tender post-petition mortgage payments for the months of October 2018 through January 2019. The monthly payment amount for the months of October 2018 through January 2019 is \$643.01 each, less suspense in the amount of \$71.50, for a total amount due of \$2,500.54. The next payment is due on or before February 2, 2019 in the amount of \$643.01. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

9. Movant additionally seeks relief from the Co-Debtor Stay under §1301(c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the Co-Debtor Stay.

10. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 and Co-Debtor Stay under Section 1301 with respect to **11614 HENDRIX TERRACE, PHILADELPHIA, PA 19116 NKA 11614 HENDRIX TER, PHILADELPHIA, PA 19116** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its

b. That relief from any Co-Debtor Stay (if applicable) is hereby granted; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire

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